IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Ram Parkash APPELLANT

VERSUS

State of Haryana RESPONDENT

CORAM : HON'BLE MR.JUSTICE MEHTAB S.GILL

Present:- Mr.Inderpal Singh, Advocate for the petitioner.

Mr.S.S.Patter, D.A.G. Haryana.

MEHTAB S.GILL, J.

This is a revision against the judgment/order dated 9.6.1990/11.6.1990 of the Chief Judicial Magistrate, Rohtak whereby he convicted the petitioner under Section 467 I.P.C. and sentenced him to undergo RI for 2 years and to pay a fine of Rs.1000/-, in default, to further undergo RI for six month. Petitioner was further convicted under Section 471 I.P.C. and sentenced to

undergo RI for 2 years and to pay a fine of Rs.500/-, in default to further undergo RI for 3 months. Petitioner was also convicted under Section 420 read with Section 511 I.P.C. and sentenced to undergo RI for one year and to pay a fine of Rs.500/-, in default, to further undergo RI for two months. All the sentences were ordered to run concurrently. Appeal filed by the petitioner against the said judgment was dismissed by the Additional Sessions Judge IV, Rohtak vide order dated 15.10.1990, which is also being assailed in this revision.

The prosecution case is that on 27.4.1983 at about 1.30 p.m. the petitioner presented a cheque of Rs.2380/- on behalf of the M/s S.M.Clearing & Forwarding Agents (hereinafter referred to as the "Firm") in the Oriental Bank of Commerce, Rohtak (hereinafter referred to as the "Bank"). This cheque had been lost by the Firm and the Firm had intimated the Bank not to clear it. Kuldeep Singh, Manager was informed of the presentation of the cheque who called the party for verification. Sawan Mal partner of the Firm came and verified that no such cheque had been issued. Signatures on the cheque did not tally with the specimen signatures. A case was registered against the petitioner.

The prosecution to prove its case, brought into the witness-box Ashok Kumar Sikka PW-1, Constable Ajit Singh PW-2, Ram Kishan Supervisor PW-3, Man Mohan Kumar PW-4, Kharaiti Lal PW-5 and Smt.Madhu Sachdeva PW-6.

Learned counsel for the petitioner has argued that there is nothing on record to show that petitioner is the one who presented the cheque. Neither there is any evidence that petitioner is the one who forged the cheque.

Learned counsel for the petitioner has further argued that the

Investigating Officer was not produced and Ram Kishan Supervisor PW-3 could not identify the accused who presented the cheque on 27.4.1983.

Learned counsel for the State has argued that petitioner cannot absolve himself that he did not forge the cheque and it was not within his knowledge. In fact, he was the one who presented it and it can safely be presumed that he forged it. Petitioner knew that this amount is not due to him and this cheque has not been issued in his favour.

I have heard the learned counsel for the parties and perused the record and the impugned judgment with their assistance.

The prosecution witnesses have in their testimony clearly stated that it is the petitioner who presented the cheque. Petitioner came to the Bank on 27.4.1983 and presented the cheque Ex.P1 to Ashok Kumar Sikka PW-1. The cheque thereafter went to Ram Kishan Supervisor PW-3 who saw that the cheque was forged and this was the cheque which the Firm had told them to see that it is not encashed.

I cannot overlook this fact that petitioner was overpowered by the Bank employees on 27.4.1983 itself. The argument of the learned counsel for the petitioner that Ram Kishan Supervisor PW-3 did not identify the petitioner, does not cut much ice as the cheque was not presented to him. Ashok Kumar Sikka PW-1 to whom the cheque was presented, identified him.

I do not find any infirmity in the judgment of the learned trial Court. Conviction of the petitioner is maintained.

Revision is of the year 1990 and occurrence is of the year 1983. Sword of conviction has been hanging over the head of the petitioner since the last

24 years. This itself is a punishment. Sentence of the petitioner is modified to the extent already undergone.

With the above modification of sentence, revision petition is dismissed.

(MEHTAB S.GILL)
July 27, 2007 JUDGE
GD

WHETHER TO BE REFERRED TO REPORTER? YES/NO